

Introduced by Senator Strickland

February 14, 2009

An act to amend Section 21606.5 of the Business and Professions Code, to amend Section 1670.7 of the Civil Code, to amend Section 1219 of the Code of Civil Procedure, to amend Section 27388 of the Government Code, to amend Sections 290.46, 484b, 1094, 12076, and 12650 of the Penal Code, and to amend Section 1767.35 of the Welfare and Institutions Code, to amend Section 12101 of the Health and Safety Code, to amend Sections 290.011, 290.4, 290.46, 484b, 830.1, 1094, 11102.1, 12076, 12650, 13010, and 13202 of the Penal Code, and to amend Sections 827.9, 1767.35, and 6603.5 of the Welfare and Institutions Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 174, as amended, Strickland. Public ~~safety~~; *safety and welfare*.

Existing law provides that a person shall not engage in specified transactions relating to explosives without having received a permit from the appropriate issuing authority. The authority shall inquire with the Department of Justice for a determination of whether the applicant meets specified criteria and should be granted or denied a permit. The department shall not disclose the contents of a person's records to any unauthorized person.

This bill would provide that if an applicant becomes ineligible to hold a permit, the Department of Justice shall provide to the issuing authority any subsequent arrest and conviction information supporting that ineligibility.

Existing law, the Sex Offender Registration Act, provides that every person who is required to register as a sex offender who is living as a transient shall be is required to register for the rest of his or her life, as specified. Any person who required to register under the a-ct who willfully violates any requirement of the act is guilty of a misdemeanor or a felony, as specified.

This bill would provide that if a transient convicted as a sex offender in another jurisdiction enters the state, he or she shall register within 5 working days of coming into California with the chief of the police of the city in which he or she is present or the sheriff of the county if he or she is present in an unincorporated area or city that has no police department. This bill would impose a state-mandated program on local government by expanding the scope of an existing crime and requiring additional administration by local agencies.

Existing law requires the Department of Justice to make reports to the Legislature regarding specified provisions of the Sex Offender Registration Act.

This bill would delete those reporting provisions.

Existing law provides that a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency in specified counties or in a county with a population of 425,000 or less, as specified. Existing law defines various persons as peace officers, including, among others, custodial officers in certain counties. Existing law requires agencies that employ peace officers to establish a procedure for the investigation of complaints by the public against peace officers.

This bill would include custodial officers, as specified, in the County of Colusa within the definition of peace officer.

Existing law requires a person applying to be a fingerprint roller to have his or her application notarized.

This bill would delete this requirement.

Existing law requires the Department of Justice to provide to the Governor a printed annual report containing criminal statistics, as specified.

This bill would delete the requirement that the report be printed.

Existing law generally regulates public safety.

This bill would make various technical~~and~~, nonsubstantive, and clarifying changes to provisions related to, among other things, junk dealers, real estate fraud, sex offenders and their victims, criminal offender records and juvenile police records, and weapons.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~yes.
State-mandated local program: ~~no~~yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21606.5 of the Business and Professions
2 Code is amended to read:
3 21606.5. Every junk dealer or recycler shall, during normal
4 business hours, allow periodic inspection of any premises
5 maintained and any junk thereon for the purpose of determining
6 compliance with the recordkeeping requirements of this article,
7 and shall during those hours produce his or her records of sales
8 and purchases, except as provided in subparagraph (B) of paragraph
9 (6) of subdivision (a) of Section 21608.5, and all property
10 purchased incident to those transactions which is in the possession
11 of the junk dealer or recycler for inspection by any of the following
12 persons:
13 (a) An officer holding a warrant authorizing him or her to search
14 for personal property.
15 (b) A person appointed by the sheriff of a county or appointed
16 by the head of the police department of a city.
17 (c) An officer holding a court order directing him or her to
18 examine the records or property.
19 (d) The amendments to this section made by the act adding this
20 subdivision shall become operative on December 1, 2008.
21 SEC. 2. Section 1670.7 of the Civil Code is amended to read:
22 1670.7. Any provision of a contract that purports to allow a
23 deduction from a person's wages for the cost of emigrating and
24 transporting that person to the United States is void as against
25 public policy.

SEC. 3. Section 1219 of the Code of Civil Procedure is amended to read:

1219. (a) Except as provided in subdivision (b), when the contempt consists of the omission to perform an act which is yet in the power of the person to perform, he or she may be imprisoned until he or she has performed it, and in that case the act shall be specified in the warrant of commitment.

(b) Notwithstanding any other law, no court may imprison or otherwise confine or place in custody the victim of a sexual assault or domestic violence crime for contempt when the contempt consists of refusing to testify concerning that sexual assault or domestic violence crime.

(c) As used in this section, the following terms have the following meanings:

(1) "Sexual assault" means any act made punishable by Section 261, 262, 264.1, 285, 286, 288, 288a, or 289 of the Penal Code.

(2) "Domestic violence" means "domestic violence" as defined in Section 6211 of the Family Code.

SEC. 4. Section 27388 of the Government Code is amended to read:

27388. (a) In addition to any other recording fees specified in this code, upon the adoption of a resolution by the county board of supervisors, a fee of up to three dollars (\$3) shall be paid at the time of recording of every real estate instrument, paper, or notice required or permitted by law to be recorded within that county, except those expressly exempted from payment of recording fees. "Real estate instrument" is defined for the purpose of this section as a deed of trust, an assignment of deed of trust, a reconveyance, a request for notice, a notice of default, a substitution of trustee, a notice of trustee sale, and a notice of rescission of declaration of default. "Real estate instrument" does not include any deed, instrument, or writing subject to the imposition of a documentary transfer tax as defined in Section 11911 of the Revenue and Taxation Code, nor any document required to facilitate the transfer subject to the documentary transfer tax. The fees, after deduction of any actual and necessary administrative costs incurred by the county in carrying out this section, shall be paid quarterly to the county auditor or director of finance, to be placed in the Real Estate Fraud Prosecution Trust Fund. The amount deducted for

1 administrative costs shall not exceed 10 percent of the fees paid
2 pursuant to this section.

3 (b) Money placed in the Real Estate Fraud Prosecution Trust
4 Fund shall be expended to fund programs to enhance the capacity
5 of local police and prosecutors to deter, investigate, and prosecute
6 real estate fraud crimes. After deduction of the actual and necessary
7 administrative costs referred to in subdivision (a), 60 percent of
8 the funds shall be distributed to district attorneys subject to review
9 pursuant to subdivision (d), and 40 percent of the funds shall be
10 distributed to local law enforcement agencies within the county
11 in accordance with subdivision (c). In those counties where the
12 investigation of real estate fraud is done exclusively by the district
13 attorney, after deduction of the actual and necessary administrative
14 costs referred to in subdivision (a), 100 percent of the funds shall
15 be distributed to the district attorney, subject to review pursuant
16 to subdivision (d). The funds so distributed shall be expended for
17 the exclusive purpose of deterring, investigating, and prosecuting
18 real estate fraud crimes.

19 (c) The county auditor or director of finance shall distribute
20 funds in the Real Estate Fraud Prosecution Trust Fund to eligible
21 law enforcement agencies within the county pursuant to subdivision
22 (b), as determined by a Real Estate Fraud Prosecution Trust Fund
23 Committee composed of the district attorney, the county chief
24 administrative officer, the chief officer responsible for consumer
25 protection within the county, and the chief law enforcement officer
26 of one law enforcement agency receiving funding from the Real
27 Estate Fraud Prosecution Trust Fund, the latter being selected by
28 a majority of the other three members of the committee. The chief
29 law enforcement officer shall be a nonvoting member of the
30 committee and shall serve a one-year term, which may be renewed.
31 Members may appoint representatives of their offices to serve on
32 the committee. If a county lacks a chief officer responsible for
33 consumer protection, the county board of supervisors may appoint
34 an appropriate representative to serve on the committee. The
35 committee shall establish and publish deadlines and written
36 procedures for local law enforcement agencies within the county
37 to apply for the use of funds and shall review applications and
38 make determinations by majority vote as to the award of funds
39 using the following criteria:

1 (1) Each law enforcement agency that seeks funds shall submit
2 a written application to the committee setting forth in detail the
3 agency's proposed use of the funds.

4 (2) In order to qualify for receipt of funds, each law enforcement
5 agency submitting an application shall provide written evidence
6 that the agency either:

7 (A) Has a unit, division, or section devoted to the investigation
8 or prosecution of real estate fraud, or both, and the unit, division,
9 or section has been in existence for at least one year prior to the
10 application date.

11 (B) Has on a regular basis, during the three years immediately
12 preceding the application date, accepted for investigation or
13 prosecution, or both, and assigned to specific persons employed
14 by the agency, cases of suspected real estate fraud, and actively
15 investigated and prosecuted those cases.

16 (3) The committee's determination to award funds to a law
17 enforcement agency shall be based on, but not be limited to, (A)
18 the number of real estate fraud cases filed in the prior year; (B)
19 the number of real estate fraud cases investigated in the prior year;
20 (C) the number of victims involved in the cases filed; and (D) the
21 total aggregated monetary loss suffered by victims, including
22 individuals, associations, institutions, or corporations, as a result
23 of the real estate fraud cases filed, and those under active
24 investigation by that law enforcement agency.

25 (4) Each law enforcement agency that, pursuant to this section,
26 has been awarded funds in the previous year, upon reapplication
27 for funds to the committee in each successive year, in addition to
28 any information the committee may require in paragraph (3), shall
29 be required to submit a detailed accounting of funds received and
30 expended in the prior year. The accounting shall include (A) the
31 amount of funds received and expended; (B) the uses to which
32 those funds were put, including payment of salaries and expenses,
33 purchase of equipment and supplies, and other expenditures by
34 type; (C) the number of filed complaints, investigations, arrests,
35 and convictions that resulted from the expenditure of the funds;
36 and (D) other relevant information the committee may reasonably
37 require.

38 (d) The county board of supervisors shall annually review the
39 effectiveness of the district attorney in deterring, investigating,
40 and prosecuting real estate fraud crimes based upon information

1 provided by the district attorney in an annual report. The district
2 attorney shall submit the annual report to the board and to the
3 Legislative Analyst's Office on or before September 1 of each
4 year. The Legislative Analyst's Office shall compile the results
5 and report to the Legislature, detailing both:

6 (1) Facts, based upon, but not limited to, (A) the number of real
7 estate fraud cases filed in the prior year; (B) the number of real
8 estate fraud cases investigated in the prior year; (C) the number
9 of victims involved in the cases filed; (D) the number of
10 convictions obtained in the prior year; and (E) the total aggregated
11 monetary loss suffered by victims, including individuals,
12 associations, institutions, corporations, and other relevant public
13 entities, according to the number of cases filed, investigations,
14 prosecutions, and convictions obtained.

15 (2) An accounting of funds received and expended in the prior
16 year, which shall include (A) the amount of funds received and
17 expended; (B) the uses to which those funds were put, including
18 payment of salaries and expenses, purchase of equipment and
19 supplies, and other expenditures by type; (C) the number of filed
20 complaints, investigations, prosecutions, and convictions that
21 resulted from the expenditure of funds; and (D) other relevant
22 information provided at the discretion of the district attorney.

23 (e) A county in which a district attorney fails to submit an annual
24 report to the Legislative Analyst's Office pursuant to the
25 requirements of subdivision (d) shall not expend funds held in that
26 county's Real Estate Fraud Prosecution Trust Fund until the district
27 attorney has submitted an annual report for the county's most
28 recent full fiscal year.

29 (f) Annual reports submitted to the Legislative Analyst's Office
30 pursuant to subdivision (d) shall be made in a standard form and
31 manner determined by the Legislative Analyst's Office, in
32 consultation with participating law enforcement agencies.

33 (g) The intent of the Legislature in enacting this section is to
34 have an impact on real estate fraud involving the largest number
35 of victims. To the extent possible, an emphasis should be placed
36 on fraud against individuals whose residences are in danger of, or
37 are in, foreclosure as defined ~~under~~ *in* subdivision (b) of Section
38 1695.1 of the Civil Code. Case filing decisions continue to be ~~in~~
39 *at* the discretion of the prosecutor.

(h) A district attorney's office or a local enforcement agency that has undertaken investigations and prosecutions that will continue into a subsequent program year may receive nonexpended funds from the previous fiscal year subsequent to the annual submission of information detailing the accounting of funds received and expended in the prior year.

(i) No money collected pursuant to this section shall be expended to offset a reduction in any other source of funds. Funds from the Real Estate Fraud Prosecution Trust Fund shall be used only in connection with criminal investigations or prosecutions involving recorded real estate documents.

SEC. 5. Section 12101 of the Health and Safety Code is amended to read:

12101. (a) No person shall do any one of the following without first having made application for and received a permit in accordance with this section:

- (1) Manufacture explosives.
- (2) Sell, furnish, or give away explosives.
- (3) Receive, store, or possess explosives.
- (4) Transport explosives.
- (5) Use explosives.
- (6) Operate a terminal for handling explosives.
- (7) Park or leave standing any vehicle carrying explosives, except when parked or left standing in or at a safe stopping place designated as such by the Department of the California Highway Patrol under Division 14 (commencing with Section 31600) of the Vehicle Code.

(b) Application for a permit shall be made to the appropriate issuing authority.

(c) (1) A permit shall be obtained from the issuing authority having the responsibility in the area where the activity, as specified in subdivision (a), is to be conducted.

(2) If the person holding a valid permit for the use or storage of explosives desires to purchase or receive explosives in a jurisdiction other than that of intended use or storage, the person shall first present the permit to the issuing authority in the jurisdiction of purchase or receipt for endorsement. The issuing authority may include any reasonable restrictions or conditions which the authority finds necessary for the prevention of fire and explosion, the preservation of life, safety, or the control and

1 security of explosives within the authority's jurisdiction. If, for
2 any reason, the issuing authority refuses to endorse the permit
3 previously issued in the area of intended use or storage, the
4 authority shall immediately notify both the issuing authority who
5 issued the permit and the Department of Justice of the fact of the
6 refusal and the reasons for the refusal.

7 (3) Every person who sells, gives away, delivers, or otherwise
8 disposes of explosives to another person shall first be satisfied that
9 the person receiving the explosives has a permit valid for that
10 purpose. When the permit to receive explosives indicates that the
11 intended storage or use of the explosives is other than in that area
12 in which the permittee receives the explosives, the person who
13 sells, gives away, delivers, or otherwise disposes of the explosives
14 shall insure that the permit has been properly endorsed by a local
15 issuing authority and, further, shall immediately send a copy of
16 the record of sale to the issuing authority who originally issued
17 the permit in the area of intended storage or use. The issuing
18 authority in the area in which the explosives are received or sold
19 shall not issue a permit for the possession, use, or storage of
20 explosives in an area not within the authority's jurisdiction.

21 (d) In the event any person desires to receive explosives for use
22 in an area outside of this state, a permit to receive the explosives
23 shall be obtained from the State Fire Marshal.

24 (e) A permit may include any restrictions or conditions which
25 the issuing authority finds necessary for the prevention of fire and
26 explosion, the preservation of life, safety, or the control and
27 security of explosives.

28 (f) A permit shall remain valid only until the time when the act
29 or acts authorized by the permit are performed, but in no event
30 shall the permit remain valid for a period longer than one year
31 from the date of issuance of the permit.

32 (g) Any valid permit which authorizes the performance of any
33 act shall not constitute authorization for the performance of any
34 act not stipulated in the permit.

35 (h) An issuing authority shall not issue a permit authorizing the
36 transportation of explosives pursuant to this section if the display
37 of placards for that transportation is required by Section 27903 of
38 the Vehicle Code, unless the driver possesses a license for the
39 transportation of hazardous materials issued pursuant to Division
40 14.1 (commencing with Section 32000) of the Vehicle Code, or

1 the explosives are a hazardous waste or extremely hazardous waste,
2 as defined in Sections 25117 and 25115 of the Health and Safety
3 Code, and the transporter is currently registered as a hazardous
4 waste hauler pursuant to Section 25163 of the Health and Safety
5 Code.

6 (i) An issuing authority shall not issue a permit pursuant to this
7 section authorizing the handling or storage of division 1.1, 1.2, or
8 1.3 explosives in a building, unless the building has caution
9 placards which meet the standards established pursuant to
10 subdivision (g) of Section 12081.

11 (j) (1) A permit shall not be issued to a person who meets any
12 of the following criteria:

13 (A) He or she has been convicted of a felony.

14 (B) He or she is addicted to a narcotic drug.

15 (C) He or she is in a class prohibited by state or federal law
16 from possessing, receiving, owning, or purchasing a firearm.

17 (2) For purposes of determining whether a person meets any of
18 the criteria set forth in this subdivision, the issuing authority shall
19 obtain two sets of fingerprints on prescribed cards from all persons
20 applying for a permit under this section and shall submit these
21 cards to the Department of Justice. The Department of Justice shall
22 utilize the fingerprint cards to make inquiries both within this state
23 and to the Federal Bureau of Investigation regarding the criminal
24 history of the applicant identified on the fingerprint card.

25 This paragraph does not apply to any person possessing a current
26 certificate of eligibility issued pursuant to paragraph (4) of
27 subdivision (a) of Section 12071 or to any holder of a dangerous
28 weapons permit or license issued pursuant to Section 12095, 12230,
29 12250, 12286, or 12305 of the Penal Code.

30 (k) An issuing authority shall inquire with the Department of
31 Justice for the purposes of determining whether a person who is
32 applying for a permit meets any of the criteria specified in
33 subdivision (j). The Department of Justice shall determine whether
34 a person who is applying for a permit meets any of the criteria
35 specified in subdivision (j) and shall either grant or deny clearance
36 for a permit to be issued pursuant to the determination. The
37 Department of Justice shall not disclose the contents of a person's
38 records to any person who is not authorized to receive the
39 information in order to ensure confidentiality. *If an applicant*
40 *becomes ineligible to hold a permit, the Department of Justice*

1 *shall provide to the issuing authority any subsequent arrest and*
2 *conviction information supporting that ineligibility.*

3 *SEC. 6. Section 290.011 of the Penal Code is amended to read:*

4 290.011. Every person who is required to register pursuant to
5 the Act who is living as a transient shall be required to register for
6 the rest of his or her life as follows:

7 (a) He or she shall register, or reregister if the person has
8 previously registered, within five working days from release from
9 incarceration, placement or commitment, or release on probation,
10 pursuant to subdivision (b) of Section 290, except that if the person
11 previously registered as a transient less than 30 days from the date
12 of his or her release from incarceration, he or she does not need
13 to reregister as a transient until his or her next required 30-day
14 update of registration. *If a transient convicted as a sex offender in*
15 *another jurisdiction enters the state, he or she shall register within*
16 *five working days of coming into California with the chief of the*
17 *police of the city in which he or she is present or the sheriff of the*
18 *county if he or she is present in an unincorporated area or city*
19 *that has no police department.* If a transient is not physically
20 present in any one jurisdiction for five consecutive working days,
21 he or she shall register in the jurisdiction in which he or she is
22 physically present on the fifth working day following release,
23 pursuant to subdivision (b) of Section 290. Beginning on or before
24 the 30th day following initial registration upon release, a transient
25 shall reregister no less than once every 30 days thereafter. A
26 transient shall register with the chief of police of the city in which
27 he or she is physically present within that 30-day period, or the
28 sheriff of the county if he or she is physically present in an
29 unincorporated area or city that has no police department, and
30 additionally, with the chief of police of a campus of the University
31 of California, the California State University, or community college
32 if he or she is physically present upon the campus or in any of its
33 facilities. A transient shall reregister no less than once every 30
34 days regardless of the length of time he or she has been physically
35 present in the particular jurisdiction in which he or she reregisters.
36 If a transient fails to reregister within any 30-day period, he or she
37 may be prosecuted in any jurisdiction in which he or she is
38 physically present.

39 (b) A transient who moves to a residence shall have five working
40 days within which to register at that address, in accordance with

1 subdivision (b) of Section 290. A person registered at a residence
2 address in accordance with that provision who becomes transient
3 shall have five working days within which to reregister as a
4 transient in accordance with subdivision (a).

5 (c) Beginning on his or her first birthday following registration,
6 a transient shall register annually, within five working days of his
7 or her birthday, to update his or her registration with the entities
8 described in subdivision (a). A transient shall register in whichever
9 jurisdiction he or she is physically present on that date. At the
10 30-day updates and the annual update, a transient shall provide
11 current information as required on the Department of Justice annual
12 update form, including the information described in paragraphs
13 (1) to (3), inclusive of subdivision (a) of Section 290.015, and the
14 information specified in subdivision (d).

15 (d) A transient shall, upon registration and reregistration, provide
16 current information as required on the Department of Justice
17 registration forms, and shall also list the places where he or she
18 sleeps, eats, works, frequents, and engages in leisure activities. If
19 a transient changes or adds to the places listed on the form during
20 the 30-day period, he or she does not need to report the new place
21 or places until the next required reregistration.

22 (e) Failure to comply with the requirement of reregistering every
23 30 days following initial registration pursuant to subdivision (a)
24 shall be punished in accordance with subdivision (g) of Section
25 290.018. Failure to comply with any other requirement of this
26 section shall be punished in accordance with either subdivision
27 (a) or (b) of Section 290.018.

28 (f) A transient who moves out of state shall inform, in person,
29 the chief of police in the city in which he or she is physically
30 present, or the sheriff of the county if he or she is physically present
31 in an unincorporated area or city that has no police department,
32 within five working days, of his or her move out of state. The
33 transient shall inform that registering agency of his or her planned
34 destination, residence or transient location out of state, and any
35 plans he or she has to return to California, if known. The law
36 enforcement agency shall, within three days after receipt of this
37 information, forward a copy of the change of location information
38 to the Department of Justice. The department shall forward
39 appropriate registration data to the law enforcement agency having
40 local jurisdiction of the new place of residence or location.

1 (g) For purposes of ~~this section~~ *the act*, “transient” means a
2 person who has no residence. “Residence” means one or more
3 addresses at which a person regularly resides, regardless of the
4 number of days or nights spent there, such as a shelter or structure
5 that can be located by a street address, including, but not limited
6 to, houses, apartment buildings, motels, hotels, homeless shelters,
7 and recreational and other vehicles.

8 (h) The transient registrant’s duty to update his or her
9 registration no less than every 30 days shall begin with his or her
10 second transient update following the date this section became
11 effective.

12 *SEC. 7. Section 290.4 of the Penal Code is amended to read:*

13 290.4. (a) The department shall operate a service through
14 which members of the public may provide a list of at least six
15 persons on a form approved by the Department of Justice and
16 inquire whether any of those persons is required to register as a
17 sex offender and is subject to public notification. The Department
18 of Justice shall respond with information on any person as to whom
19 information may be available to the public via the Internet Web
20 site as provided in Section 290.46, to the extent that information
21 may be disclosed pursuant to Section 290.46. The Department of
22 Justice may establish a fee for requests, including all actual and
23 reasonable costs associated with the service.

24 (b) The income from the operation of the service specified in
25 subdivision (a) shall be deposited in the Sexual Predator Public
26 Information Account within the Department of Justice for the
27 purpose of the implementation of this section by the Department
28 of Justice.

29 The moneys in the account shall consist of income from the
30 operation of the service authorized by subdivision (a), and any
31 other funds made available to the account by the Legislature.
32 Moneys in the account shall be available to the Department of
33 Justice upon appropriation by the Legislature for the purpose
34 specified in subdivision (a).

35 (c) (1) Any person who uses information disclosed pursuant to
36 this section to commit a felony shall be punished, in addition and
37 consecutive to, any other punishment, by a five-year term of
38 imprisonment in the state prison.

39 (2) Any person who, without authorization, uses information
40 disclosed pursuant to this section to commit a misdemeanor shall

1 be subject to, in addition to any other penalty or fine imposed, a
2 fine of not less than five hundred dollars (\$500) and not more than
3 one thousand dollars (\$1,000).

4 (d) (1) A person is authorized to use information disclosed
5 pursuant to this section only to protect a person at risk.

6 (2) Except as authorized under paragraph (1) or any other
7 provision of law, use of any information that is disclosed pursuant
8 to this section for purposes relating to any of the following is
9 prohibited:

10 (A) Health insurance.

11 (B) Insurance.

12 (C) Loans.

13 (D) Credit.

14 (E) Employment.

15 (F) Education, scholarships, or fellowships.

16 (G) Housing or accommodations.

17 (H) Benefits, privileges, or services provided by any business
18 establishment.

19 (3) This section shall not affect authorized access to, or use of,
20 information pursuant to, among other provisions, Sections 11105
21 and 11105.3 of this code, Section 226.55 of the Civil Code,
22 Sections 777.5 and 14409.2 of the Financial Code, Sections
23 1522.01 and 1596.871 of the Health and Safety Code, and Section
24 432.7 of the Labor Code.

25 (4) (A) Any use of information disclosed pursuant to this section
26 for purposes other than those provided by paragraph (1) or in
27 violation of paragraph (2) shall make the user liable for the actual
28 damages, and any amount that may be determined by a jury or a
29 court sitting without a jury, not exceeding three times the amount
30 of actual damage, and not less than two hundred fifty dollars
31 (\$250), and attorney's fees, exemplary damages, or a civil penalty
32 not exceeding twenty-five thousand dollars (\$25,000).

33 (B) Whenever there is reasonable cause to believe that any
34 person or group of persons is engaged in a pattern or practice of
35 misuse of the service specified in subdivision (a), in violation of
36 paragraph (2), the Attorney General, any district attorney, or city
37 attorney, or any person aggrieved by the misuse of the service is
38 authorized to bring a civil action in the appropriate court requesting
39 preventive relief, including an application for a permanent or
40 temporary injunction, restraining order, or other order against the

1 person or group of persons responsible for the pattern or practice
2 of misuse. The foregoing remedies shall be independent of any
3 other remedies or procedures that may be available to an aggrieved
4 party under other provisions of law, including Part 2 (commencing
5 with Section 43) of Division 1 of the Civil Code.

6 (e) The Department of Justice and its employees shall be
7 immune from liability for good faith conduct under this section.

8 (f) The public notification provisions of this section are
9 applicable to every person described in subdivision (a), without
10 regard to when his or her crimes were committed or his or her duty
11 to register pursuant to Section 290 arose, and to every offense
12 subject to public notification pursuant to Section 290.46, regardless
13 of when it was committed.

14 ~~(g) On or before July 1, 2006, and every year thereafter, the~~
15 ~~Department of Justice shall make a report to the Legislature~~
16 ~~concerning the operation of this section.~~

17 ~~SEC. 5.~~

18 *SEC. 8.* Section 290.46 of the Penal Code, as amended by
19 Section 1.5 of Chapter 599 of the Statutes of 2008, is amended to
20 read:

21 290.46. (a) (1) On or before the dates specified in this section,
22 the Department of Justice shall make available information
23 concerning persons who are required to register pursuant to Section
24 290 to the public via an Internet Web site as specified in this
25 section. The department shall update the Internet Web site on an
26 ongoing basis. All information identifying the victim by name,
27 birth date, address, or relationship to the registrant shall be
28 excluded from the Internet Web site. The name or address of the
29 person's employer and the listed person's criminal history other
30 than the specific crimes for which the person is required to register
31 shall not be included on the Internet Web site. The Internet Web
32 site shall be translated into languages other than English as
33 determined by the department.

34 (2) (A) On or before July 1, 2010, the Department of Justice
35 shall make available to the public, via an Internet Web site as
36 specified in this section, as to any person described in subdivision
37 (b), (c), or (d), the following information:

38 (i) The year of conviction of his or her most recent offense
39 requiring registration pursuant to Section 290.

1 (ii) The year he or she was released from incarceration for that
2 offense.

3 (iii) Whether he or she was subsequently incarcerated for any
4 other felony, if that fact is reported to the department. If the
5 department has no information about a subsequent incarceration
6 for any felony, that fact shall be noted on the Internet Web site.

7 However, no year of conviction shall be made available to the
8 public unless the department also is able to make available the
9 corresponding year of release of incarceration for that offense, and
10 the required notation regarding any subsequent felony.

11 (B) (i) Any state facility that releases from incarceration a
12 person who was incarcerated because of a crime for which he or
13 she is required to register as a sex offender pursuant to Section
14 290 shall, within 30 days of release, provide the year of release
15 for his or her most recent offense requiring registration to the
16 Department of Justice in a manner and format approved by the
17 department.

18 (ii) Any state facility that releases a person who is required to
19 register pursuant to Section 290 from incarceration whose
20 incarceration was for a felony committed subsequently to the
21 offense for which he or she is required to register shall, within 30
22 days of release, advise the Department of Justice of that fact.

23 (iii) Any state facility that, prior to January 1, 2007, released
24 from incarceration a person who was incarcerated because of a
25 crime for which he or she is required to register as a sex offender
26 pursuant to Section 290 shall provide the year of release for his or
27 her most recent offense requiring registration to the Department
28 of Justice in a manner and format approved by the department.
29 The information provided by the Department of Corrections and
30 Rehabilitation shall be limited to information that is currently
31 maintained in an electronic format.

32 (iv) Any state facility that, prior to January 1, 2007, released a
33 person who is required to register pursuant to Section 290 from
34 incarceration whose incarceration was for a felony committed
35 subsequently to the offense for which he or she is required to
36 register shall advise the Department of Justice of that fact in a
37 manner and format approved by the department. The information
38 provided by the Department of Corrections and Rehabilitation
39 shall be limited to information that is currently maintained in an
40 electronic format.

1 (3) The State Department of Mental Health shall provide to the
2 Department of Justice Sex Offender Tracking Program the names
3 of all persons committed to its custody pursuant to Article 4
4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division
5 6 of the Welfare and Institutions Code, within 30 days of
6 commitment, and shall provide the names of all of those persons
7 released from its custody within five working days of release.

8 (b) (1) On or before July 1, 2005, with respect to a person who
9 has been convicted of the commission or the attempted commission
10 of any of the offenses listed in, or who is described in, paragraph
11 (2), the Department of Justice shall make available to the public
12 via the Internet Web site his or her name and known aliases, a
13 photograph, a physical description, including gender and race, date
14 of birth, criminal history, prior adjudication as a sexually violent
15 predator, the address at which the person resides, and any other
16 information that the Department of Justice deems relevant, but not
17 the information excluded pursuant to subdivision (a).

18 (2) This subdivision shall apply to the following offenses and
19 offenders:

20 (A) Section 187 committed in the perpetration, or an attempt to
21 perpetrate, rape or any act punishable under Section 286, 288,
22 288a, or 289.

23 (B) Section 207 committed with intent to violate Section 261,
24 286, 288, 288a, or 289.

25 (C) Section 209 committed with intent to violate Section 261,
26 286, 288, 288a, or 289.

27 (D) Paragraph (2) or (6) of subdivision (a) of Section 261.

28 (E) Section 264.1.

29 (F) Section 269.

30 (G) Subdivision (c) or (d) of Section 286.

31 (H) Subdivision (a), (b), or (c) of Section 288, provided that the
32 offense is a felony.

33 (I) Subdivision (c) or (d) of Section 288a.

34 (J) Section 288.3, provided that the offense is a felony.

35 (K) Section 288.4, provided that the offense is a felony.

36 (L) Section 288.5.

37 (M) Subdivision (a) or (j) of Section 289.

38 (N) Section 288.7.

- 1 (O) Any person who has ever been adjudicated a sexually violent
2 predator, as defined in Section 6600 of the Welfare and Institutions
3 Code.
- 4 (P) A felony violation of Section 311.1.
- 5 (Q) A felony violation of subdivision (b), (c), or (d) of Section
6 311.2.
- 7 (R) A felony violation of Section 311.3.
- 8 (S) A felony violation of subdivision (a), (b), or (c) of Section
9 311.4.
- 10 (T) Section 311.10.
- 11 (U) A felony violation of Section 311.11.
- 12 (c) (1) On or before July 1, 2005, with respect to a person who
13 has been convicted of the commission or the attempted commission
14 of any of the offenses listed in paragraph (2), the Department of
15 Justice shall make available to the public via the Internet Web site
16 his or her name and known aliases, a photograph, a physical
17 description, including gender and race, date of birth, criminal
18 history, the community of residence and ZIP Code in which the
19 person resides or the county in which the person is registered as a
20 transient, and any other information that the Department of Justice
21 deems relevant, but not the information excluded pursuant to
22 subdivision (a). On or before July 1, 2006, the Department of
23 Justice shall determine whether any person convicted of an offense
24 listed in paragraph (2) also has one or more prior or subsequent
25 convictions of an offense listed in subdivision (c) of Section 290,
26 and, for those persons, the Department of Justice shall make
27 available to the public via the Internet Web site the address at
28 which the person resides. However, the address at which the person
29 resides shall not be disclosed until a determination is made that
30 the person is, by virtue of his or her additional prior or subsequent
31 conviction of an offense listed in subdivision (c) of Section 290,
32 subject to this subdivision.
- 33 (2) This subdivision shall apply to the following offenses:
- 34 (A) Section 220, except assault to commit mayhem.
- 35 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.
- 36 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
37 (i), of Section 286.
- 38 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
39 (i), of Section 288a.
- 40 (E) Subdivision (b), (d), (e), or (i) of Section 289.

(d) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, this subdivision, the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a) or the address at which the person resides.

(2) This subdivision shall apply to the following offenses and offenders:

(A) Subdivision (a) of Section 243.4, provided that the offense is a felony.

(B) Section 266, provided that the offense is a felony.

(C) Section 266c, provided that the offense is a felony.

(D) Section 266j.

(E) Section 267.

(F) Subdivision (c) of Section 288, provided that the offense is a misdemeanor.

(G) Section 288.3, provided that the offense is a misdemeanor.

(H) Section 288.4, provided that the offense is a misdemeanor.

(I) Section 626.81.

(J) Section 647.6.

(K) Section 653c.

(L) Any person required to register pursuant to Section 290 based upon an out-of-state conviction, unless that person is excluded from the Internet Web site pursuant to subdivision (e). However, if the Department of Justice has determined that the out-of-state crime, if committed or attempted in this state, would have been punishable in this state as a crime described in subdivision (c) of Section 290, the person shall be placed on the Internet Web site as provided in subdivision (b) or (c), as applicable to the crime.

(e) (1) If a person has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision, and he or she has been convicted of no other offense listed in subdivision (b), (c), or (d) other than those listed in this

subdivision, that person may file an application with the Department of Justice, on a form approved by the department, for exclusion from the Internet Web site. If the department determines that the person meets the requirements of this subdivision, the department shall grant the exclusion and no information concerning the person shall be made available via the Internet Web site described in this section. He or she bears the burden of proving the facts that make him or her eligible for exclusion from the Internet Web site. However, a person who has filed for or been granted an exclusion from the Internet Web site is not relieved of his or her duty to register as a sex offender pursuant to Section 290 nor from any otherwise applicable provision of law.

(2) This subdivision shall apply to the following offenses:

(A) A felony violation of subdivision (a) of Section 243.4.

(B) Section 647.6, if the offense is a misdemeanor.

(C) A felony violation of Section 311.1, subdivision (b), (c), or (d) of Section 311.2, or Section 311.3, 311.4, 311.10, or 311.11 if the person submits to the department a certified copy of a probation report filed in court that clearly states that all victims involved in the commission of the offense were at least 16 years of age or older at the time of the commission of the offense.

(D) (i) An offense for which the offender successfully completed probation, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(ii) An offense for which the offender is on probation at the time of his or her application, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

1 (iii) If, subsequent to his or her application, the offender commits
2 a violation of probation resulting in his or her incarceration in
3 county jail or state prison, his or her exclusion, or application for
4 exclusion, from the Internet Web site shall be terminated.

5 (iv) For the purposes of this subparagraph, “successfully
6 completed probation” means that during the period of probation
7 the offender neither received additional county jail or state prison
8 time for a violation of probation nor was convicted of another
9 offense resulting in a sentence to county jail or state prison.

10 (3) If the department determines that a person who was granted
11 an exclusion under a former version of this subdivision would not
12 qualify for an exclusion under the current version of this
13 subdivision, the department shall rescind the exclusion, make a
14 reasonable effort to provide notification to the person that the
15 exclusion has been rescinded, and, no sooner than 30 days after
16 notification is attempted, make information about the offender
17 available to the public on the Internet Web site as provided in this
18 section.

19 (4) Effective January 1, 2012, no person shall be excluded
20 pursuant to this subdivision unless the offender has submitted to
21 the department documentation sufficient for the department to
22 determine that he or she has a SARATSO risk level of low or
23 moderate-low.

24 (f) The Department of Justice shall make a reasonable effort to
25 provide notification to persons who have been convicted of the
26 commission or attempted commission of an offense specified in
27 subdivision (b), (c), or (d), that on or before July 1, 2005, the
28 department is required to make information about specified sex
29 offenders available to the public via an Internet Web site as
30 specified in this section. The Department of Justice shall also make
31 a reasonable effort to provide notice that some offenders are
32 eligible to apply for exclusion from the Internet Web site.

33 (g) (1) A designated law enforcement entity, as defined in
34 subdivision (f) of Section 290.45, may make available information
35 concerning persons who are required to register pursuant to Section
36 290 to the public via an Internet Web site as specified in paragraph
37 (2).

38 (2) The law enforcement entity may make available by way of
39 an Internet Web site the information described in subdivision (c)
40 if it determines that the public disclosure of the information about

1 a specific offender by way of the entity's Internet Web site is
2 necessary to ensure the public safety based upon information
3 available to the entity concerning that specific offender.

4 (3) The information that may be provided pursuant to this
5 subdivision may include the information specified in subdivision
6 (b) of Section 290.45. However, that offender's address may not
7 be disclosed unless he or she is a person whose address is on the
8 Department of Justice's Internet Web site pursuant to subdivision
9 (b) or (c).

10 (h) For purposes of this section, "offense" includes the statutory
11 predecessors of that offense, or any offense committed in another
12 jurisdiction that, if committed or attempted to be committed in this
13 state, would have been punishable in this state as an offense listed
14 in subdivision (c) of Section 290.

15 (i) Notwithstanding Section 6254.5 of the Government Code,
16 disclosure of information pursuant to this section is not a waiver
17 of exemptions under Chapter 3.5 (commencing with Section 6250)
18 of Title 1 of Division 7 of the Government Code and does not
19 affect other statutory restrictions on disclosure in other situations.

20 (j) (1) Any person who uses information disclosed pursuant to
21 this section to commit a misdemeanor shall be subject to, in
22 addition to any other penalty or fine imposed, a fine of not less
23 than ten thousand dollars (\$10,000) and not more than fifty
24 thousand dollars (\$50,000).

25 (2) Any person who uses information disclosed pursuant to this
26 section to commit a felony shall be punished, in addition and
27 consecutive to any other punishment, by a five-year term of
28 imprisonment in the state prison.

29 (k) Any person who is required to register pursuant to Section
30 290 who enters an Internet Web site established pursuant to this
31 section shall be punished by a fine not exceeding one thousand
32 dollars (\$1,000), imprisonment in a county jail for a period not to
33 exceed six months, or by both that fine and imprisonment.

34 (l) (1) A person is authorized to use information disclosed
35 pursuant to this section only to protect a person at risk.

36 (2) Except as authorized under paragraph (1) or any other
37 provision of law, use of any information that is disclosed pursuant
38 to this section for purposes relating to any of the following is
39 prohibited:

40 (A) Health insurance.

- 1 (B) Insurance.
- 2 (C) Loans.
- 3 (D) Credit.
- 4 (E) Employment.
- 5 (F) Education, scholarships, or fellowships.
- 6 (G) Housing or accommodations.
- 7 (H) Benefits, privileges, or services provided by any business
- 8 establishment.

9 (3) This section shall not affect authorized access to, or use of,
10 information pursuant to, among other provisions, Sections 11105
11 and 11105.3, Section 8808 of the Family Code, Sections 777.5
12 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871
13 of the Health and Safety Code, and Section 432.7 of the Labor
14 Code.

15 (4) (A) Any use of information disclosed pursuant to this section
16 for purposes other than those provided by paragraph (1) or in
17 violation of paragraph (2) shall make the user liable for the actual
18 damages, and any amount that may be determined by a jury or a
19 court sitting without a jury, not exceeding three times the amount
20 of actual damage, and not less than two hundred fifty dollars
21 (\$250), and attorney's fees, exemplary damages, or a civil penalty
22 not exceeding twenty-five thousand dollars (\$25,000).

23 (B) Whenever there is reasonable cause to believe that any
24 person or group of persons is engaged in a pattern or practice of
25 misuse of the information available via an Internet Web site
26 established pursuant to this section in violation of paragraph (2),
27 the Attorney General, any district attorney, or city attorney, or any
28 person aggrieved by the misuse is authorized to bring a civil action
29 in the appropriate court requesting preventive relief, including an
30 application for a permanent or temporary injunction, restraining
31 order, or other order against the person or group of persons
32 responsible for the pattern or practice of misuse. The foregoing
33 remedies shall be independent of any other remedies or procedures
34 that may be available to an aggrieved party under other provisions
35 of law, including Part 2 (commencing with Section 43) of Division
36 1 of the Civil Code.

37 (m) The public notification provisions of this section are
38 applicable to every person described in this section, without regard
39 to when his or her crimes were committed or his or her duty to

1 register pursuant to Section 290 arose, and to every offense
2 described in this section, regardless of when it was committed.

3 ~~(n) On or before July 1, 2006, and every year thereafter, the~~
4 ~~Department of Justice shall make a report to the Legislature~~
5 ~~concerning the operation of this section.~~

6 ~~(o)~~

7 (n) A designated law enforcement entity and its employees shall
8 be immune from liability for good faith conduct under this section.

9 ~~(p)~~

10 (o) The Attorney General, in collaboration with local law
11 enforcement and others knowledgeable about sex offenders, shall
12 develop strategies to assist members of the public in understanding
13 and using publicly available information about registered sex
14 offenders to further public safety. These strategies may include,
15 but are not limited to, a hotline for community inquiries,
16 neighborhood and business guidelines for how to respond to
17 information posted on this Internet Web site, and any other resource
18 that promotes public education about these offenders.

19 ~~SEC. 6.~~

20 *SEC. 9.* Section 484b of the Penal Code is amended to read:

21 484b. Any person who receives money for the purpose of
22 obtaining or paying for services, labor, materials or equipment and
23 willfully fails to apply such money for such purpose by either
24 willfully failing to complete the improvements for which funds
25 were provided or willfully failing to pay for services, labor,
26 materials or equipment provided incident to such construction,
27 and wrongfully diverts the funds to a use other than that for which
28 the funds were received, shall be guilty of a public offense and
29 shall be punishable by a fine not exceeding ten thousand dollars
30 (\$10,000), or by imprisonment in the state prison, or in ~~the~~ a county
31 jail *for a period* not exceeding one year, or by both ~~such fine and~~
32 ~~such that fine and~~ imprisonment if the amount diverted is in excess
33 of one thousand dollars (\$1,000). If the amount diverted is one
34 thousand dollars (\$1,000) or less, the person shall be guilty of a
35 misdemeanor.

36 *SEC. 10.* Section 830.1 of the Penal Code is amended to read:

37 830.1. (a) Any sheriff, undersheriff, or deputy sheriff,
38 employed in that capacity, of a county, any chief of police of a
39 city or chief, director, or chief executive officer of a consolidated
40 municipal public safety agency that performs police functions, any

1 police officer, employed in that capacity and appointed by the
2 chief of police or chief, director, or chief executive of a public
3 safety agency, of a city, any chief of police, or police officer of a
4 district, including police officers of the San Diego Unified Port
5 District Harbor Police, authorized by statute to maintain a police
6 department, any marshal or deputy marshal of a superior court or
7 county, any port warden or port police officer of the Harbor
8 Department of the City of Los Angeles, or any inspector or
9 investigator employed in that capacity in the office of a district
10 attorney, is a peace officer. The authority of these peace officers
11 extends to any place in the state, as follows:

12 (1) As to any public offense committed or which there is
13 probable cause to believe has been committed within the political
14 subdivision that employs the peace officer or in which the peace
15 officer serves.

16 (2) Where the peace officer has the prior consent of the chief
17 of police or chief, director, or chief executive officer of a
18 consolidated municipal public safety agency, or person authorized
19 by him or her to give consent, if the place is within a city, or of
20 the sheriff, or person authorized by him or her to give consent, if
21 the place is within a county.

22 (3) As to any public offense committed or which there is
23 probable cause to believe has been committed in the peace officer's
24 presence, and with respect to which there is immediate danger to
25 person or property, or of the escape of the perpetrator of the
26 offense.

27 (b) The Attorney General and special agents and investigators
28 of the Department of Justice are peace officers, and those assistant
29 chiefs, deputy chiefs, chiefs, deputy directors, and division directors
30 designated as peace officers by the Attorney General are peace
31 officers. The authority of these peace officers extends to any place
32 in the state where a public offense has been committed or where
33 there is probable cause to believe one has been committed.

34 (c) Any deputy sheriff of the County of Los Angeles, and any
35 deputy sheriff of the Counties of Butte, Calaveras, *Colusa*, Glenn,
36 Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Mariposa,
37 Mendocino, Plumas, Riverside, San Benito, San Diego, Santa
38 Barbara, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter,
39 Tehama, Tulare, and Tuolumne who is employed to perform duties
40 exclusively or initially relating to custodial assignments with

responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency.

~~SEC. 7.~~

SEC. 11. Section 1094 of the Penal Code is amended to read:

1094. When the state of the pleadings requires it, or in any other case, for good reasons, and in the sound discretion of the court, the order prescribed in Section 1093 may be departed from.

SEC. 12. Section 11102.1 of the Penal Code is amended to read:

11102.1. (a) (1) Notwithstanding any other law, the Department of Justice shall establish, implement, and maintain a certification program to process fingerprint-based criminal background clearances on individuals who roll fingerprint impressions, manually or electronically, for non-law-enforcement purposes. Except as provided in paragraph (2), no person shall roll fingerprints for non-law-enforcement purposes unless certified.

(2) The following persons shall be exempt from this section if they have received training pertaining to applicant fingerprint rolling and have undergone a criminal offender record information background investigation:

(A) Law enforcement personnel and state employees.

(B) Employees of a tribal gaming agency or a tribal gaming operation, provided that the fingerprints are rolled and submitted to the Department of Justice for purposes of compliance with a tribal-state compact.

(3) The department shall not accept fingerprint impressions for non-law-enforcement purposes unless they were rolled by an individual certified or exempted pursuant to this section.

(b) Individuals who roll fingerprint impressions, either manually or electronically, for non-law-enforcement purposes, must submit to the Department of Justice fingerprint images and related information, along with the appropriate fees and documentation.

The department shall retain one copy of the fingerprint impressions

1 to process a state level criminal background clearance, and it shall
2 submit one copy of the fingerprint impressions to the Federal
3 Bureau of Investigation to process a federal level criminal
4 background clearance.

5 (c) The department shall retain the fingerprint impressions for
6 subsequent arrest notification pursuant to Section 11105.2.

7 (d) Every individual certified as a fingerprint roller shall meet
8 the following criteria:

9 (1) Be a legal resident of this state at the time of certification.

10 (2) Be at least 18 years of age.

11 (3) Have satisfactorily completed a ~~notarized~~ written application
12 prescribed by the department to determine the fitness of the person
13 to exercise the functions of a fingerprint roller.

14 (e) Prior to granting a certificate as a fingerprint roller, the
15 department shall determine that the applicant possesses the required
16 honesty, credibility, truthfulness, and integrity to fulfill the
17 responsibilities of the position.

18 (f) (1) The department shall refuse to certify any individual as
19 a fingerprint roller, and shall revoke the certification of any
20 fingerprint roller, upon either of the following:

21 (A) Conviction of a felony offense.

22 (B) Conviction of any other offense that both involves moral
23 turpitude, dishonesty, or fraud, and bears on the applicant's ability
24 to perform the duties or responsibilities of a fingerprint roller.

25 (2) A conviction after a plea of nolo contendere is deemed to
26 be a conviction for purposes of this subdivision.

27 (g) In addition to subdivision (f), the department may refuse to
28 certify any individual as a fingerprint roller, and may revoke or
29 suspend the certification of any fingerprint roller upon any of the
30 following:

31 (1) Substantial and material misstatement or omission in the
32 application submitted to the department.

33 (2) Arrest pending adjudication for a felony.

34 (3) Arrest pending adjudication for a lesser offense that both
35 involves moral turpitude, dishonesty, or fraud, and bears on the
36 applicant's ability to perform the duties or responsibilities of a
37 fingerprint roller.

38 (4) Revocation, suspension, restriction, or denial of a
39 professional license, if the revocation, suspension, restriction, or
40 denial was for misconduct, dishonesty, or for any cause

1 substantially related to the duties or responsibilities of a fingerprint
2 roller.

3 (5) Failure to discharge fully and faithfully any of the duties or
4 responsibilities required of a fingerprint roller.

5 (6) When adjudged liable for damages in any suit grounded in
6 fraud, misrepresentation, or in violation of the state regulatory
7 laws, or in any suit based upon a failure to discharge fully and
8 faithfully the duties of a fingerprint roller.

9 (7) Use of false or misleading advertising in which the
10 fingerprint roller has represented that he or she has duties, rights,
11 or privileges that he or she does not possess by law.

12 (8) Commission of any act involving dishonesty, fraud, or deceit
13 with the intent to substantially benefit the fingerprint roller or
14 another, or to substantially injure another.

15 (9) Failure to submit any remittance payable upon demand by
16 the department or failure to satisfy any court ordered money
17 judgment, including restitution.

18 (h) The Department of Justice shall work with applicant
19 regulatory entities to improve and make more efficient the criminal
20 offender record information request process related to employment,
21 licensing, and certification background investigations.

22 (i) The Department of Justice may adopt regulations as necessary
23 to implement the provisions of this section.

24 (j) The department shall charge a fee sufficient to cover its costs
25 under this section.

26 ~~SEC. 8:~~

27 *SEC. 13.* Section 12076 of the Penal Code is amended to read:

28 12076. (a) (1) Before January 1, 1998, the Department of
29 Justice shall determine the method by which a dealer shall submit
30 firearm purchaser information to the department and the
31 information shall be in one of the following formats:

32 (A) Submission of the register described in Section 12077.

33 (B) Electronic or telephonic transfer of the information contained
34 in the register described in Section 12077.

35 (2) On or after January 1, 1998, electronic or telephonic transfer,
36 including voice or facsimile transmission, shall be the exclusive
37 means by which purchaser information is transmitted to the
38 department.

39 (3) On or after January 1, 2003, except as permitted by the
40 department, electronic transfer shall be the exclusive means by

1 which information is transmitted to the department. Telephonic
2 transfer shall not be permitted for information regarding sales of
3 any firearms.

4 (b) (1) Where the register is used, the purchaser of any firearm
5 shall be required to present clear evidence of his or her identity
6 and age, as defined in Section 12071, to the dealer, and the dealer
7 shall require him or her to sign his or her current legal name and
8 affix his or her residence address and date of birth to the register
9 in quadruplicate. The salesperson shall affix his or her signature
10 to the register in quadruplicate as a witness to the signature and
11 identification of the purchaser. Any person furnishing a fictitious
12 name or address or knowingly furnishing any incorrect information
13 or knowingly omitting any information required to be provided
14 for the register and any person violating any provision of this
15 section is guilty of a misdemeanor, provided however, that any
16 person who is prohibited from obtaining a firearm pursuant to
17 Section 12021 or 12021.1 of this code, or Section 8100 or 8103
18 of the Welfare and Institutions Code who knowingly furnishes a
19 fictitious name or address or knowingly furnishes any incorrect
20 information or knowingly omits any information required to be
21 provided for the register shall be punished by imprisonment in a
22 county jail not exceeding one year or imprisonment in the state
23 prison for a term of 8, 12, or 18 months.

24 (2) The original of the register shall be retained by the dealer
25 in consecutive order. Each book of 50 originals shall become the
26 permanent register of transactions that shall be retained for not
27 less than three years from the date of the last transaction and shall
28 be available for the inspection of any peace officer, Department
29 of Justice employee designated by the Attorney General, or agent
30 of the federal Bureau of Alcohol, Tobacco, Firearms, and
31 Explosives upon the presentation of proper identification, but no
32 information shall be compiled therefrom regarding the purchasers
33 or other transferees of firearms that are not pistols, revolvers, or
34 other firearms capable of being concealed upon the person.

35 (3) Two copies of the original sheet of the register, on the date
36 of the application to purchase, shall be placed in the mail, postage
37 prepaid, and properly addressed to the Department of Justice.

38 (4) If requested, a photocopy of the original shall be provided
39 to the purchaser by the dealer.

(5) If the transaction is a private party transfer conducted pursuant to Section 12082, a photocopy of the original shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser's personal information, as required pursuant to paragraph (1) of subdivision (b) and paragraph (1) of subdivision (c) of Section 12077, from the seller's copy, and the seller's personal information from the purchaser's copy.

(c) (1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the electronic or telephonic transfer and any person violating any provision of this section is guilty of a misdemeanor, provided however, that any person who is prohibited from obtaining a firearm pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code who knowingly furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required to be provided for the register shall be punished by imprisonment in a county jail not exceeding one year or imprisonment in the state prison for a term of 8, 12, or 18 months.

(2) The record of applicant information shall be transmitted to the Department of Justice by electronic or telephonic transfer on the date of the application to purchase.

(3) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order. Each original shall become the permanent record of the transaction that shall be retained for not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives upon the presentation of proper

1 identification, but no information shall be compiled therefrom
2 regarding the purchasers or other transferees of firearms that are
3 not pistols, revolvers, or other firearms capable of being concealed
4 upon the person.

5 (4) If requested, a copy of the record of electronic or telephonic
6 transfer shall be provided to the purchaser by the dealer.

7 (5) If the transaction is a private party transfer conducted
8 pursuant to Section 12082, a copy shall be provided to the seller
9 or purchaser by the dealer, upon request. The dealer shall redact
10 all of the purchaser's personal information, as required pursuant
11 to paragraph (1) of subdivision (b) and paragraph (1) of subdivision
12 (c) of Section 12077, from the seller's copy, and the seller's
13 personal information from the purchaser's copy.

14 (d) (1) The department shall examine its records, as well as
15 those records that it is authorized to request from the State
16 Department of Mental Health pursuant to Section 8104 of the
17 Welfare and Institutions Code, in order to determine if the
18 purchaser is a person described in subparagraph (A) of paragraph
19 (9) of subdivision (a) of Section 12072, or is prohibited by state
20 or federal law from possessing, receiving, owning, or purchasing
21 a firearm.

22 (2) To the extent that funding is available, the Department of
23 Justice may participate in the National Instant Criminal Background
24 Check System (NICS), as described in subsection (t) of Section
25 922 of Title 18 of the United States Code, and, if that participation
26 is implemented, shall notify the dealer and the chief of the police
27 department of the city or city and county in which the sale was
28 made, or if the sale was made in a district in which there is no
29 municipal police department, the sheriff of the county in which
30 the sale was made, that the purchaser is a person prohibited from
31 acquiring a firearm under federal law.

32 (3) If the department determines that the purchaser is prohibited
33 by state or federal law from possessing, receiving, owning, or
34 purchasing a firearm or is a person described in subparagraph (A)
35 of paragraph (9) of subdivision (a) of Section 12072, it shall
36 immediately notify the dealer and the chief of the police department
37 of the city or city and county in which the sale was made, or if the
38 sale was made in a district in which there is no municipal police
39 department, the sheriff of the county in which the sale was made,
40 of that fact.

(4) If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (e) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (e), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(5) If the department determines that the information transmitted to it pursuant to subdivision (c) contains inaccurate or incomplete information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to subdivision (e) is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to subdivision (e), or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(e) The Department of Justice may require the dealer to charge each firearm purchaser a fee not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations. The fee shall be no more than is necessary to fund the following:

(1) (A) The department for the cost of furnishing this information.

1 (B) The department for the cost of meeting its obligations under
2 paragraph (2) of subdivision (b) of Section 8100 of the Welfare
3 and Institutions Code.

4 (2) Local mental health facilities for state-mandated local costs
5 resulting from the reporting requirements imposed by Section 8103
6 of the Welfare and Institutions Code.

7 (3) The State Department of Mental Health for the costs resulting
8 from the requirements imposed by Section 8104 of the Welfare
9 and Institutions Code.

10 (4) Local mental hospitals, sanitariums, and institutions for
11 state-mandated local costs resulting from the reporting
12 requirements imposed by Section 8105 of the Welfare and
13 Institutions Code.

14 (5) Local law enforcement agencies for state-mandated local
15 costs resulting from the notification requirements set forth in
16 subdivision (a) of Section 6385 of the Family Code.

17 (6) Local law enforcement agencies for state-mandated local
18 costs resulting from the notification requirements set forth in
19 subdivision (c) of Section 8105 of the Welfare and Institutions
20 Code.

21 (7) For the actual costs associated with the electronic or
22 telephonic transfer of information pursuant to subdivision (c).

23 (8) The Department of Food and Agriculture for the costs
24 resulting from the notification provisions set forth in Section 5343.5
25 of the Food and Agricultural Code.

26 (9) The department for the costs associated with subparagraph
27 (D) of paragraph (2) of subdivision (f) of Section 12072.

28 (10) The department for the costs associated with funding
29 Department of Justice firearms-related regulatory and enforcement
30 activities related to the sale, purchase, loan, or transfer of firearms
31 pursuant to this chapter.

32 The fee established pursuant to this subdivision shall not exceed
33 the sum of the actual processing costs of the department, the
34 estimated reasonable costs of the local mental health facilities for
35 complying with the reporting requirements imposed by paragraph
36 (2) of this subdivision, the costs of the State Department of Mental
37 Health for complying with the requirements imposed by paragraph
38 (3) of this subdivision, the estimated reasonable costs of local
39 mental hospitals, sanitariums, and institutions for complying with
40 the reporting requirements imposed by paragraph (4) of this

1 subdivision, the estimated reasonable costs of local law
2 enforcement agencies for complying with the notification
3 requirements set forth in subdivision (a) of Section 6385 of the
4 Family Code, the estimated reasonable costs of local law
5 enforcement agencies for complying with the notification
6 requirements set forth in subdivision (c) of Section 8105 of the
7 Welfare and Institutions Code imposed by paragraph (6) of this
8 subdivision, the estimated reasonable costs of the Department of
9 Food and Agriculture for the costs resulting from the notification
10 provisions set forth in Section 5343.5 of the Food and Agricultural
11 Code, the estimated reasonable costs of the department for the
12 costs associated with subparagraph (D) of paragraph (2) of
13 subdivision (f) of Section 12072, and the estimated reasonable
14 costs of department firearms-related regulatory and enforcement
15 activities related to the sale, purchase, loan, or transfer of firearms
16 pursuant to this chapter.

17 (f) (1) The Department of Justice may charge a fee sufficient
18 to reimburse it for each of the following but not to exceed fourteen
19 dollars (\$14), except that the fee may be increased at a rate not to
20 exceed any increase in the California Consumer Price Index as
21 compiled and reported by the ~~California~~ Department of Industrial
22 Relations:

23 (A) For the actual costs associated with the preparation, sale,
24 processing, and filing of forms or reports required or utilized
25 pursuant to Section 12078.

26 (B) For the actual processing costs associated with the
27 submission of a Dealers' Record of Sale to the department.

28 (C) For the actual costs associated with the preparation, sale,
29 processing, and filing of reports utilized pursuant to subdivision
30 (l) of Section 12078 or paragraph (18) of subdivision (b) of Section
31 12071, or clause (i) of subparagraph (A) of paragraph (2) of
32 subdivision (f) of Section 12072, or paragraph (3) of subdivision
33 (f) of Section 12072.

34 (D) For the actual costs associated with the electronic or
35 telephonic transfer of information pursuant to subdivision (c).

36 (2) If the department charges a fee pursuant to subparagraph
37 (B) of paragraph (1) of this subdivision, it shall be charged in the
38 same amount to all categories of transaction that are within that
39 subparagraph.

1 (3) Any costs incurred by the Department of Justice to
2 implement this subdivision shall be reimbursed from fees collected
3 and charged pursuant to this subdivision. No fees shall be charged
4 to the dealer pursuant to subdivision (e) for implementing this
5 subdivision.

6 (g) All money received by the department pursuant to this
7 section shall be deposited in the Dealers' Record of Sale Special
8 Account of the General Fund, which is hereby created, to be
9 available, upon appropriation by the Legislature, for expenditure
10 by the department to offset the costs incurred pursuant to this
11 section, paragraph (1) and subparagraph (D) of paragraph (2) of
12 subdivision (f) of Section 12072, Sections 12083 and 12099,
13 subdivision (c) of Section 12131, Sections 12234, 12289, and
14 12289.5, and subdivisions (f) and (g) of Section 12305.

15 (h) Where the electronic or telephonic transfer of applicant
16 information is used, the department shall establish a system to be
17 used for the submission of the fees described in subdivision (e) to
18 the department.

19 (i) (1) Only one fee shall be charged pursuant to this section
20 for a single transaction on the same date for the sale of any number
21 of firearms that are not pistols, revolvers, or other firearms capable
22 of being concealed upon the person or for the taking of possession
23 of those firearms.

24 (2) In a single transaction on the same date for the delivery of
25 any number of firearms that are pistols, revolvers, or other firearms
26 capable of being concealed upon the person, the department shall
27 charge a reduced fee pursuant to this section for the second and
28 subsequent firearms that are part of that transaction.

29 (j) Only one fee shall be charged pursuant to this section for a
30 single transaction on the same date for taking title or possession
31 of any number of firearms pursuant to paragraph (18) of
32 subdivision (b) of Section 12071 or subdivision (c) or (i) of Section
33 12078.

34 (k) Whenever the Department of Justice acts pursuant to this
35 section as it pertains to firearms other than pistols, revolvers, or
36 other firearms capable of being concealed upon the person, the
37 department's acts or omissions shall be deemed to be discretionary
38 within the meaning of the California Tort Claims Act pursuant to
39 Division 3.6 (commencing with Section 810) of Title 1 of the
40 Government Code.

(l) As used in this section, the following definitions apply:

(1) “Purchaser” means the purchaser or transferee of a firearm or a person being loaned a firearm.

(2) “Purchase” means the purchase, loan, or transfer of a firearm.

(3) “Sale” means the sale, loan, or transfer of a firearm.

(4) “Seller” means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

~~SEC. 9.~~

SEC. 14. Section 12650 of the Penal Code is amended to read:

12650. “Stun gun” as used in this chapter means any item, except a less lethal weapon, as defined in Section 12601, used or intended to be used as either an offensive or defensive weapon that is capable of temporarily immobilizing a person by the infliction of an electrical charge.

SEC. 15. *Section 13010 of the Penal Code is amended to read:*

13010. It shall be the duty of the department:

(a) To collect data necessary for the work of the department from all persons and agencies mentioned in Section 13020 and from any other appropriate source.

(b) To prepare and distribute to all those persons and agencies, cards, forms, or electronic means used in reporting data to the department. The cards, forms, or electronic means may, in addition to other items, include items of information needed by federal bureaus or departments engaged in the development of national and uniform criminal statistics.

(c) To recommend the form and content of records which must be kept by those persons and agencies in order to insure the correct reporting of data to the department.

(d) To instruct those persons and agencies in the installation, maintenance, and use of those records and in the reporting of data therefrom to the department.

(e) To process, tabulate, analyze and interpret the data collected from those persons and agencies.

(f) To supply, at their request, to federal bureaus or departments engaged in the collection of national criminal statistics data they need from this state.

(g) To present to the Governor, on or before July 1st, ~~a printed~~ *an* annual report containing the criminal statistics of the preceding calendar year and to present at other times as the Attorney General

1 may approve reports on special aspects of criminal statistics. A
2 sufficient number of copies of all reports shall be ~~printed or~~
3 ~~otherwise~~ prepared to enable the Attorney General to send a copy
4 to all public officials in the state dealing with criminals and to
5 distribute them generally in channels where they will add to the
6 public enlightenment.

7 (h) To periodically review the requirements of units of
8 government using criminal justice statistics, and to make
9 recommendations for changes it deems necessary in the design of
10 criminal justice statistics systems, including new techniques of
11 collection and processing made possible by automation.

12 *SEC. 16. Section 13202 of the Penal Code is amended to read:*

13 13202. ~~Every~~ *Notwithstanding subdivision (g) of Section 11105*
14 *and subdivision (a) of Section 13305, every* public agency or bona
15 fide research body immediately concerned with the prevention or
16 control of crime, the quality of criminal justice, or the custody or
17 correction of offenders may be provided with such criminal
18 offender record information as is required for the performance of
19 its duties, provided that any material identifying individuals is not
20 transferred, revealed, or used for other than research or statistical
21 activities and reports or publications derived therefrom do not
22 identify specific individuals, and provided that such agency or
23 body pays the cost of the processing of such data as determined
24 by the Attorney General.

25 *SEC. 17. Section 827.9 of the Welfare and Institutions Code*
26 *is amended to read:*

27 827.9. (a) It is the intent of the Legislature to reaffirm its belief
28 that records or information gathered by law enforcement agencies
29 relating to the taking of a minor into custody, temporary custody,
30 or detention (juvenile police records) should be confidential.
31 Confidentiality is necessary to protect those persons from being
32 denied various opportunities, to further the rehabilitative efforts
33 of the juvenile justice system, and to prevent the lifelong stigma
34 that results from having a juvenile police record. Although these
35 records generally should remain confidential, the Legislature
36 recognizes that certain circumstances require the release of juvenile
37 police records to specified persons and entities. The purpose of
38 this section is to clarify the persons and entities entitled to receive
39 a complete copy of a juvenile police record, to specify the persons
40 or entities entitled to receive copies of juvenile police records with

1 certain identifying information about other minors removed from
2 the record, and to provide procedures for others to request a copy
3 of a juvenile police record. This section does not govern the release
4 of police records involving a minor who is the witness to or victim
5 of a crime who is protected by other laws including, but not limited
6 to, Section 841.5 of the Penal Code, Section 11167 et seq. of the
7 Penal Code, and Section 6254 of the Government Code.

8 (b) Except as provided in Sections 389 and 781 of this code or
9 Section 1203.45 of the Penal Code, a law enforcement agency
10 shall release, upon request, a complete copy of a juvenile police
11 record, as defined in subdivision (m), without notice or consent
12 from the person who is the subject of the juvenile police record to
13 the following persons or entities:

14 (1) ~~Other California~~ law enforcement agencies including the
15 office of the Attorney General of California, any district attorney,
16 the Department of Corrections, ~~the Department of the Youth~~
17 ~~Authority, and Rehabilitation, including the Division of Juvenile~~
18 *Justice*, and any peace officer as specified in subdivision (a) of
19 Section 830.1 of the Penal Code.

20 (2) School district police.

21 (3) Child protective agencies as defined in Section 11165.9 of
22 the Penal Code.

23 (4) The attorney representing the juvenile who is the subject of
24 the juvenile police record in a criminal or juvenile proceeding.

25 (5) The Department of Motor Vehicles.

26 (c) Except as provided in Sections 389 and 781 of this code or
27 Section 1203.45 of the Penal Code, law enforcement agencies shall
28 release, upon request, a copy of a juvenile police record to the
29 following persons and entities only if identifying information
30 pertaining to any other juvenile, within the meaning of subdivision
31 (n), has been removed from the record:

32 (1) The person who is the subject of the juvenile police record.

33 (2) The parents or guardian of a minor who is the subject of the
34 juvenile police record.

35 (3) An attorney for a parent or guardian of a minor who is the
36 subject of the juvenile police record.

37 (d) (1) (A) If a person or entity listed in subdivision (c) seeks
38 to obtain a complete copy of a juvenile police record that contains
39 identifying information concerning the taking into custody or
40 detention of any other juvenile, within the meaning of subdivision

(n), who is not a dependent child or a ward of the juvenile court, that person or entity shall submit a completed Petition to Obtain Report of Law Enforcement Agency, as developed pursuant to subdivision (i), to the appropriate law enforcement agency. The law enforcement agency shall send a notice to the following persons that a Petition to Obtain Report of Law Enforcement Agency has been submitted to the agency:

(i) The juvenile about whom information is sought.

(ii) The parents or guardian of any minor described in subparagraph (i). The law enforcement agency shall make reasonable efforts to obtain the address of the parents or guardian.

(B) For purposes of responding to a request submitted pursuant to this subdivision, a law enforcement agency may check the Juvenile Automated Index or may contact the juvenile court to determine whether a person is a dependent child or a ward of the juvenile court and whether parental rights have been terminated or the juvenile has been emancipated.

(C) The notice sent pursuant to this subdivision shall include the following information:

(i) The identity of the person or entity requesting a copy of the juvenile police record.

(ii) A copy of the completed Petition to Obtain Report of Law Enforcement Agency.

(iii) The time period for submitting an objection to the law enforcement agency, which shall be 20 days if notice is provided by mail or confirmed fax, or 15 days if notice is provided by personal service.

(iv) The means to submit an objection.

A law enforcement agency shall issue notice pursuant to this section within 20 days of the request. If no objections are filed, the law enforcement agency shall release the juvenile police record within 15 days of the expiration of the objection period.

(D) If any objections to the disclosure of the other juvenile's information are submitted to the law enforcement agency, the law enforcement agency shall send the completed Petition to Obtain Report of Law Enforcement Agency, the objections, and a copy of the requested juvenile police record to the presiding judge of the juvenile court or, in counties with no presiding judge of the juvenile court, the judge of the juvenile court or his or her designee,

1 to obtain authorization from the court to release a complete copy
2 of the juvenile police record.

3 (2) If a person or entity listed in subdivision (c) seeks to obtain
4 a complete copy of a juvenile police record that contains identifying
5 information concerning the taking into custody or detention of any
6 other juvenile, within the meaning of subdivision (n), who is a
7 dependent child or a ward of the juvenile court, that person or
8 entity shall submit a Petition to Obtain Report of Law Enforcement
9 Agency, as developed pursuant to subdivision (i), to the appropriate
10 law enforcement agency. The law enforcement agency shall send
11 that Petition to Obtain Report of Law Enforcement Agency and a
12 completed petition for authorization to release the information to
13 that person or entity along with a complete copy of the requested
14 juvenile police record to the presiding judge of the juvenile court,
15 or, in counties with no presiding judge of the juvenile court, the
16 judge of the juvenile court or his or her designees. The juvenile
17 court shall provide notice of the petition for authorization to the
18 following persons:

19 (A) If the person who would be identified if the information is
20 released is a minor who is a dependent child of the juvenile court,
21 notice of the petition shall be provided to the following persons:

- 22 (i) The minor.
- 23 (ii) The attorney of record for the minor.
- 24 (iii) The parents or guardian of the minor, unless parental rights
25 have been terminated.
- 26 (iv) The child protective agency responsible for the minor.
- 27 (v) The attorney representing the child protective agency
28 responsible for the minor.

29 (B) If the person who would be identified if the information is
30 released is a ward of the juvenile court, notice of the petition shall
31 be provided to the following:

- 32 (i) The ward.
- 33 (ii) The attorney of record for the ward.
- 34 (iii) The parents or guardian of the ward if the ward is under 18
35 years of age, unless parental rights have been terminated.
- 36 (iv) The district attorney.
- 37 (v) The probation department.

38 (e) Except as otherwise provided in this section or in Sections
39 389 and 781 of this code or Section 1203.45 of the Penal Code,
40 law enforcement agencies shall release copies of juvenile police

1 records to any other person designated by court order upon the
2 filing of a Petition to Obtain Report of Law Enforcement Agency
3 with the juvenile court. The petition shall be filed with the presiding
4 judge of the juvenile court, or, in counties with no presiding judge
5 of the juvenile court, the judge of the juvenile court or his or her
6 designee, in the county where the juvenile police record is
7 maintained.

8 (f) (1) After considering the petition and any objections
9 submitted to the juvenile court pursuant to paragraph (1) or (2) of
10 subdivision (d), the court shall determine whether the law
11 enforcement agency may release a complete copy of the juvenile
12 police record to the person or entity that submitted the request.

13 (2) In determining whether to authorize the release of a juvenile
14 police record, the court shall balance the interests of the juvenile
15 who is the subject of the record, the petitioner, and the public. The
16 juvenile court may issue orders prohibiting or limiting the release
17 of information contained in the juvenile police record. The court
18 may also deny the existence of a juvenile police record where the
19 record is properly sealed or the juvenile who is the subject of the
20 record has properly denied its existence.

21 (3) Prior to authorizing the release of any juvenile police record,
22 the juvenile court shall ensure that notice and an opportunity to
23 file an objection to the release of the record has been provided to
24 the juvenile who is the subject of the record or who would be
25 identified if the information is released, that person's parents or
26 guardian if he or she is under 18 years of age, and any additional
27 person or entity described in subdivision (d), as applicable. The
28 period for filing an objection shall be 20 days from the date notice
29 is given if notice is provided by mail or confirmed fax and 15 days
30 from the date notice is given if notice is provided by personal
31 service. If review of the petition is urgent, the petitioner may file
32 a motion with the presiding judge of the juvenile court showing
33 good cause why the objection period should be shortened. The
34 court shall issue a ruling on the completed petition within 15 days
35 of the expiration of the objection period.

36 (g) Any out-of-state entity comparable to the California entities
37 listed in paragraphs (1) to (5), inclusive, of subdivision (b) shall
38 file a petition with the presiding judge of the juvenile court in the
39 county where the juvenile police record is maintained in order to

1 receive a copy of a juvenile police record. A petition from that
2 entity may be granted on an ex parte basis.

3 (h) Nothing in this section shall require the release of
4 confidential victim or witness information protected by other laws
5 including, but not limited to, Section 841.5 of the Penal Code,
6 Section 11167 et seq. of the Penal Code, and Section 6254 of the
7 Government Code.

8 (i) The Judicial Council, in consultation with the California Law
9 Enforcement Association of Record Supervisors (CLEARS), shall
10 develop forms for distribution by law enforcement agencies to the
11 public to implement this section. Those forms shall include, but
12 are not limited to, the Petition to Obtain Report of Law
13 Enforcement Agency. The material for the public shall include
14 information about the persons who are entitled to a copy of the
15 juvenile police record and the specific procedures for requesting
16 a copy of the record if a petition is necessary. The Judicial Council
17 shall provide law enforcement agencies with suggested forms for
18 compliance with the notice provisions set forth in subdivision (d).

19 (j) Any information received pursuant to subdivisions (a) to (e),
20 inclusive, and (g) of this section shall be received in confidence
21 for the limited purpose for which it was provided and shall not be
22 further disseminated. An intentional violation of the confidentiality
23 provisions of this section is a misdemeanor, punishable by a fine
24 not to exceed five hundred dollars (\$500).

25 (k) A court shall consider any information relating to the taking
26 of a minor into custody, if the information is not contained in a
27 record which has been sealed, for purposes of determining whether
28 an adjudication of the commission of a crime as a minor warrants
29 a finding that there are circumstances in aggravation pursuant to
30 Section 1170 of the Penal Code or to deny probation.

31 (l) When a law enforcement agency has been notified pursuant
32 to Section 1155 that a minor has escaped from a secure detention
33 facility, the law enforcement agency shall release the name of, and
34 any descriptive information about, the minor to a person who
35 specifically requests this information. The law enforcement agency
36 may release the information on the minor without a request to do
37 so if it finds that release of the information would be necessary to
38 assist in recapturing the minor or that it would be necessary to
39 protect the public from substantial physical harm.

1 (m) For purposes of this section, a “juvenile police record”
2 refers to records or information relating to the taking of a minor
3 into custody, temporary custody, or detention.

4 (n) For purposes of this section, with respect to a juvenile police
5 record, “any other juvenile” refers to additional minors who were
6 taken into custody or temporary custody, or detained and who also
7 could be considered a subject of the juvenile police record.

8 (o) An evaluation of the efficacy of the procedures for the
9 release of police records containing information about minors as
10 described in this section shall be conducted by the juvenile court
11 and law enforcement in Los Angeles County and the results of that
12 evaluation shall be reported to the Legislature on or before
13 December 31, 2006.

14 (p) This section shall only apply to Los Angeles County.

15 ~~SEC. 10.~~

16 *SEC. 18.* Section 1767.35 of the Welfare and Institutions Code
17 is amended to read:

18 1767.35. Commencing on September 1, 2007, any parolee
19 under the jurisdiction of the Division of Juvenile Parole Operations
20 shall be returned to custody upon the suspension, cancellation, or
21 revocation of parole as follows:

22 (a) To the custody of the Division of Juvenile Facilities if the
23 parolee is under the jurisdiction of the division for the commission
24 of an offense described in subdivision (b) of Section 707 or an
25 offense described in subdivision (c) of Section 290.008 of the
26 Penal Code.

27 (b) To the county of commitment if the parolee is under the
28 jurisdiction of the division for the commission of an offense not
29 described in subdivision (b) of Section 707 or subdivision (c) of
30 Section 290.008 of the Penal Code. If a ward subject to this
31 subdivision is detained by the Division of Juvenile Parole
32 Operations for the purpose of initiating proceedings to suspend,
33 cancel, or revoke the ward’s parole, the division shall notify the
34 court and probation department of the committing county within
35 48 hours of the ward’s detention that the ward is subject to parole
36 violation proceedings. Within 15 days of a parole violation notice
37 from the division, the committing court shall conduct a reentry
38 disposition hearing for the ward. Pending the hearing, the ward
39 may be detained by the division, provided that the division shall
40 deliver the ward to the custody of the probation department in the

1 county of commitment not more than three judicial days nor less
2 than two judicial days prior to the reentry disposition hearing. At
3 the hearing, at which the ward shall be entitled to representation
4 by counsel, the court shall consider the alleged violation of parole,
5 the risks and needs presented by the ward, and the reentry
6 disposition programs and sanctions that are available for the ward,
7 and enter a disposition order consistent with these considerations
8 and the protection of the public. The ward shall be fully informed
9 by the court of the terms, conditions, responsibilities, and sanctions
10 that are relevant to the reentry plan that is adopted by the court.
11 Upon delivery to the custody of the probation department for local
12 proceedings under this subdivision, the Division of Juvenile
13 Facilities and the Board of Parole Hearings shall have no further
14 jurisdiction or parole supervision responsibility for a ward subject
15 to this subdivision. The procedure of the reentry disposition
16 hearing, including the detention status of the ward in the event
17 continuances are ordered by the court, shall be consistent with the
18 rules, rights, and procedures applicable to delinquency disposition
19 hearings, as described in Article 17 (commencing with Section
20 675) of Chapter 2 of Part 1 of Division 2.

21 *SEC. 19. Section 6603.5 of the Welfare and Institutions Code*
22 *is amended to read:*

23 6603.5. No employee or agent of the Department of Corrections
24 and Rehabilitation, the Board of Parole Hearings, or the State
25 Department of Mental Health shall disclose to any person, *except*
26 *to employees or agents of each named department, the prosecutor,*
27 *the respondent's counsel, licensed private investigators hired or*
28 *appointed for the respondent, or other persons or agencies where*
29 *authorized or required by law,* the name, address, telephone
30 number, or other identifying information of a person who was
31 involved in a civil commitment hearing under this article as the
32 victim of a sex offense except where authorized or required by
33 law.

34 *SEC. 20. No reimbursement is required by this act pursuant*
35 *to Section 6 of Article XIII B of the California Constitution for*
36 *certain costs that may be incurred by a local agency or school*
37 *district because, in that regard, this act creates a new crime or*
38 *infraction, eliminates a crime or infraction, or changes the penalty*
39 *for a crime or infraction, within the meaning of Section 17556 of*
40 *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

3 *However, if the Commission on State Mandates determines that*
4 *this act contains other costs mandated by the state, reimbursement*
5 *to local agencies and school districts for those costs shall be made*
6 *pursuant to Part 7 (commencing with Section 17500) of Division*
7 *4 of Title 2 of the Government Code.*

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